

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Enbridge Offshore Pipelines (UTOS) LLC      Docket No. RP03-335-000

ORDER APPROVING SETTLEMENT

(Issued July 23, 2003)

1. On April 30, 2003, the Commission issued an order accepting and suspending subject to refund and further review a general Section 4 rate increase, filed by Enbridge Offshore Pipelines (UTOS) LLC, to become effective October 1, 2003, or on an earlier date specified by subsequent Commission order. On May 30, 2003, UTOS filed an Offer of Settlement (Settlement). For the reasons discussed below, the Commission will approve the Settlement without modification, terminate the proceeding, and reject the suspended tariff sheets as moot. This order serves the public interest because it provides rate certainty to UTOS' shippers, as rates will remain at their existing levels under the Settlement.

**Background**

2. On March 31, 2003, UTOS filed a general rate increase under Section 4(e) of the NGA.<sup>1</sup> On April 30, 2003, the Commission issued an order accepting and suspending the tariff sheets subject to refund and further review, to become effective October 1, 2003, or an earlier date specified by subsequent Commission order.<sup>2</sup> Although the filing was not protested, UTOS included proposals that may have been inconsistent with current Commission policy or were otherwise unsupported. Therefore, in the interest of administrative efficiency and to avoid imposing inordinate burdens on UTOS, a small pipeline, the Commission chose not to set the rate increase for hearing, but suspended the rates for five months subject to further review.

**Details of the Settlement**

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<sup>1</sup>First Revised Sheet No. 4 and Second Revised Sheet Nos. 100 and 135, to FERC Gas Tariff, Fifth Revised Volume No. 1.

<sup>2</sup>103 FERC ¶ 61,097 (2003).

3. Article I of the Settlement describes the factual background and procedural history of this proceeding. Article II establishes the settlement rates UTOS will be authorized to charge. It states that UTOS will implement rates in this proceeding equal to its currently-existing rates. UTOS states that, because the rates implemented in this Settlement equal the existing rates, no tariff filing is required to implement the Settlement. Article II also provides that UTOS will file a new general rate case under Section 4(e) on or before the date that is three years after the date of a final, non-appealable Commission order approving this Settlement without conditions unacceptable to UTOS. Thus, UTOS' currently-existing rates will remain in effect until superceded as the result of such filing or other Commission action. Further, UTOS states it is not seeking at this time to implement the separate ACA Surcharge proposed in the March 31, 2003 filing that initiated this proceeding.

4. Article III provides that the Settlement is in the public interest, because the proceeding has been resolved by negotiation of the parties, which UTOS states none of the intervenors oppose, and which results in system rates equal to existing rates. UTOS states this reflects a significant decrease from the rates it proposed herein. UTOS notes in the present circumstances, in which its system is largely depreciated and volumes have declined dramatically and are expected to continue at or below existing levels, competition is likely to preclude it from charging rates higher than its currently-existing rates. UTOS states the Settlement, which avoids litigation costs and rate uncertainty, and establishes costs that are fully supported, will promote administrative efficiencies in a manner consistent with exiting Commission policies.

5. Article IV reflects the standard settlement provisions concerning the general reservation of rights. It provides that by submitting this Settlement, or by accepting it, neither UTOS, nor any other affected person, shall be considered as necessarily agreeing with, having approved, or having consented to any ratemaking principle or any method of cost of service determination, cost classification, allocation or rate design underlying or supposed to underlie any of the rates referred to herein, and neither UTOS, the Commission, nor any other party is to be prejudiced or bound thereby in any future proceeding or proceedings.

### **Comments**

6. The Settlement comment period expired June 19, 2003. No comments were filed. UTOS notes that the intervenors in this proceeding do not oppose the Settlement. UTOS notes it has been authorized to state that Chevron Texaco Natural Gas, a Division of Chevron U.S.A. Inc. (Chevron) and Shell Offshore Inc. (Shell) either support or do not oppose the Settlement. In addition, UTOS states Duke Energy Trading and Marketing, L.L.C. (DETM) does not oppose the Settlement.

**Discussion**

7. This uncontested Settlement resolves all issues raised in UTOS' filing. The Commission will approve the Settlement without modification. The Settlement is fair, reasonable, and in the public interest. Commission approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue involved in this proceeding.

**The Commission orders:**

- (A) The Settlement is approved without modification.
- (B) The tariff sheets listed in footnote no. 1 are rejected as moot.
- (C) The proceeding in Docket No. RP03-335-000 is terminated.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.